

Atty. Docket No.
Serial No: 10/

Remarks

Claims 53 - 64 are active in the case. This Substitute Amendment corrects the claim status descriptor for claim 55. The present invention relates to an improved method for treating osteoporosis with an effervescent bisphosphonate solution having high buffering capacity combined with an anti-ulcer agent. Support for an anti-ulcer agent is found in original claim 2. The advantage of this combination is that absorption of the bisphosphonate can be surprisingly enhanced. When dissolved in water, the claimed composition provides an acid mediating effect on the stomach pH such that the bisphosphonate is more readily absorbed from the gastrointestinal tract into the blood stream. This effect is enhanced in the presence of an anti-ulcer agent because the capacity of the buffered solution to mediate the pH of a patient's stomach is extended beyond that of the effervescent composition without the anti-ulcer agent, as disclosed in paragraphs [0020, 0021 and 0033]. The prior art does not teach this effect.

The Rejection of Claims under 35 U.S.C. § 103

The rejection of Claims 44 – 52 under 35 U.S.C. § 103 as being unpatentable over Katdare et al. (US 5,853,759) is respectfully traversed. Claims 44 – 52 have been canceled. New claims 53 recites the co-administration of an anti-ulcer agent. The reference teaches generically that bisphosphonates can be administered in effervescent solutions, but does not recognize the desirability co-administering an anti-ulcer agent or its effects on buffering capacity and bisphosphonate absorption. As now claimed the invention would not have been obvious within the meaning of 35 U.S.C. § 103.

Atty. Docket No.
Serial No: 10/

The rejection of Claims 44 – 52 under 35 U.S.C. § 103 as being unpatentable over Daifotis et al. (US 5,994,329) is respectfully traversed.

Example 8 of Daifotis et al. is a liquid composition but not an effervescent one. Therefore it is not similar to applicants' invention. The reference does not recognize the desirability co-administering an anti-ulcer agent or its effects on buffering capacity and bisphosphonate absorption Accordingly, the claims are patentable over Daifotis et al.

Conclusions

Applicants submit that the case is now in condition for allowance. Early notice to that effect is earnestly requested.

If it is deemed helpful or beneficial to the efficient prosecution of the present application, the Examiner is invited to contact Applicant's undersigned representative by telephone.

Respectfully submitted,

/RobertHahl#33,893/

Robert W. Hahl, Ph.D.
Reg. No. 33,893

Neifeld IP Law, PC
4813-B Eisenhower Avenue
Alexandria, VA 22304
Tel: 703-415-0012 ext. 25
Fax: 703-415-0013